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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/599,530	12/30/2006	Bernhard Braunecker	16455.14	1404
57137	7590	08/06/2007		
WORKMAN NYDEGGER 60 E. SOUTH TEMPLE SUITE 1000 SALT LAKE CITY, UT 84111			EXAMINER BRAINARD, TIMOTHY A	
			ART UNIT 3662	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/599,530

Applicant(s)

BRAUNECKER ET AL.

Examiner

Timothy A. Brainard

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 4/13/2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11-16 and 19-28 is/are rejected.
- 7) ☐ Claim(s) 17 and 18 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input checked="" type="checkbox"/> Other: <u>PTO-1449</u> |

DETAILED ACTION

Specification

This application does not contain an abstract of the disclosure as required by 37 CFR 1.72(b). An abstract on a separate sheet is required.

The drawings are objected to because they were not submitted.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 21-24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 21 claims "...a third spectral filter..." The system needs a second spectral filter before a third spectral filter. Claims 22-24 are rejected because they depend on a rejected claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 11-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Falk et al (US 4611712). Falk teaches (claim 1) a distance meter for telescope arrangements in earth- or space-supported applications for the measurement of surfaces comprising a radiation source for the emission of electromagnetic radiation a receiver unit including a

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sensor for receiving radiation reflected by a target and for deriving distance information from the received radiation; and a first spectral filter component including at least one spatial filter component, the spatial filter component being formed and arranged in such a way that the angular range of reception of the reflected radiation is limited (col 2, lines 3-36), (claim 12) the radiation source includes a laser for producing light for surveying the target (col 3, lines 11-18), and (claim 13) the receiver derives the distance information using the pulse transit time method or the phase measurement method (col 1, lines 14-21).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Falk as applied to claim 11 above, and further in view of Morley (US 5903996). Morley teaches the first spectral filter is an IR filter (col 12, lines 25-37). It would have been obvious to modify Falk to include the first spectral filter is an IR filter because it is one of multiple design choices with no new or unexpected results.

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Falk as applied to claim 11 above, and further in view of Ibsen et al (US 2003/0067645). Ibsen teaches the spatial filter component includes an optical fiber having a micro-lens located upstream in the receiving direction. It would have been obvious to modify Falk to include

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the spatial filter component includes an optical fiber having a micro-lens because it is one of multiple design choices with no new or unexpected result.

Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Falk as applied to claim 11 above, and further in view of Martinsson (US 2004/0213527).

Martinsson teaches the spatial filter component includes a fiber laser having a multimodal and an active fibre core (abs). It would have been obvious to modify Falk to include the spatial filter component includes a fiber laser having a multimodal and an active fibre core because it is one of multiple design choices with no new or unexpected result.

Claim 19 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Falk as applied to claim 11 above, and further in view of Sauter (US 6111692). Sauter teaches a second spatial filter component located upstream of the first spectral filter component in the receiving end (col 17, line 62 to col 18, line 18). It would have been obvious to modify Falk to include a second spatial filter component located upstream of the first spectral filter component in the receiving end because it would further filter the return signal.

Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Falk in view of Sauter as applied to claim 19 above, and further in view of Abe (US 2004/0246495) Abe teaches the second spectral filter component including a UV filter. It would have been obvious to modify Falk in view of Sauter to include the second spectral filter component including a UV filter because it is one of multiple design choices with no new or unexpected result.

Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Falk as applied to claim 11 above, and further in view of Sauter (US 6111692) and Billmers et al (US 6724467). Sauter teaches a second filter component located upstream of the first spectral filter component in the receiving end (col 17, line 62 to col 18, line 18). Billmers teaches the filter being a narrowband filter (col 3, lines 52-60). It would have been obvious to modify Falk to include a narrowband filter component located upstream of the first spectral filter component in the receiving end because it would further filter the return signal.

Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Falk in view of Sauter and Billmers as applied to claim 21 above, and further in view of Jupp et al (US 2004/0130702). Jupp teaches the narrowband spectral filter component includes a spectral width of less than 1 nm about the wavelength of the emitted radiation (para 1075). It would have been obvious to modify Falk in view of Sauter and Billmers to include the narrowband spectral filter component includes a spectral width of less than 1 nm about the wavelength of the emitted radiation because it is one of multiple design choices with no new or unexpected result.

Claim 23 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Falk in view of Sauter and Billmers as applied to claim 21 above, and further in view of Popescu et al (US 6181412). Popescu teaches a fabry-poret interferometer as the spectral filter component (col 3, lines 32-45). It would have been obvious to modify Falk in view of Sauter and Billmers to include a fabry-poret interferometer as the spectral filter

component because it is one of multiple design choices with no new or unexpected result.

Claim 26-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Falk in view of Sauter as applied to claim 25 above, and further in view of Noriaki et al (Improvement of laser-beam). Noriaki teaches the two spatial filters include a coordinated multi-lens array being fixed by a hexagonal honeycomb-like structure (abs and intro). It would have been obvious to modify Falk in view of Sauter to include the two spatial filters include a coordinated multi-lens array being fixed by a hexagonal honeycomb-like structure because each is one of multiple design choices with no new or unexpected results. It would have been obvious to modify Falk in view of Sauter in view of Noriaki to include a multi-lens array to be formed out of ZnSe plate and the honeycomb-structure to comprise beryllium because each is one of multiple ways to implement a broad teaching with no new or unexpected result.

Allowable Subject Matter

Claims 17-18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy A. Brainard whose telephone number is (571) 272-2132. The examiner can normally be reached on Monday - Friday 8:00 - 5:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Tarcza can be reached on (571)272-6979. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

TAB



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